

Introduced by Senator Soto
(Principal coauthor: Assembly Member Chu)

February 22, 2002

An act to add Division 29 (commencing with Section 38000) to the Public Resources Code, relating to petroleum pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1994, as introduced, Soto. California Clean Communities and Petroleum Pollution Cleanup Act of 2002.

(1) Existing law creates the Carl Moyer Memorial Air Quality Standards Attainment Program, administered by the State Air Resources Board, which authorizes grants by air quality management districts and air pollution control districts to offset the incremental cost of projects that reduce the emissions of oxides of nitrogen (NOx) from onroad trucks, offroad nonrecreational equipment and vehicles, locomotives, diesel marine vessels, stationary agricultural engines, and other high-emitting diesel engines. Existing law requires the state board to endeavor to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources in order to accomplish the attainment of state ambient air quality standards by the earliest practicable date. Existing state board guidelines establish criteria for a lower-emission school bus program, a replacement and particulate matter retrofit program for diesel schoolbuses in the state, implemented in part by the districts.

This bill would enact the California Clean Communities and Petroleum Pollution Cleanup Act of 2002, which would require the operator of every refinery in the state to pay a 30¢ fee for each barrel of crude oil refined at that refinery to the State Board of Equalization

on a quarterly basis based on the number of barrels of crude oil refined during the previous quarter.

The bill would create the California Petroleum Pollution Cleanup Fund in the State Treasury, and would require that ____% of the fees imposed on each barrel of refined crude oil be imposed on the amount of crude oil refined into petroleum products other than diesel fuel. The bill would require that the moneys from that portion of the fee be deposited in the fund for allocation to a Petroleum Polluted Water Remediation Account, administered by the California Environmental Protection Agency to remediate petroleum contamination of groundwater and marine and terrestrial surface waters. The bill would require that ____% of the fees imposed on each barrel of refined crude oil be imposed on the amount of crude oil refined into diesel fuel, as defined. The bill would require that 50¢ of each dollar from that portion of the fee be deposited in the fund for allocation to the Carl Moyer Memorial Air Quality Standards Attainment Trust Fund to fund diesel emissions exposure reduction incentive projects and programs through air quality management districts and air pollution control districts, and that the remaining 50¢ of each such dollar be allocated to the state board to provide funding to purchase new, lower emitting schoolbuses. By imposing additional duties upon the districts, this bill would impose a state-mandated local program. The bill would also require the state board to develop and adopt guidelines for the purchase of those schoolbuses, separate and distinct from the guidelines adopted for the existing program administered by the state board.

The bill would require the Secretary for Environmental Protection to establish the California Petroleum Pollution Cleanup Fund Committee, comprised of specified members. The bill would require that committee to oversee the distribution of the moneys allocated to the Petroleum Polluted Water Remediation Account, including reviewing applications for funding, selecting fund recipients, and deciding upon the level of funding for recipients of moneys from that account. The bill would specify the entities, projects, and costs that would be eligible for funding from that account.

The bill would prohibit the expenditure of more than 3% of the funds for program administration and overhead costs annually. The bill would require moneys allocated to the Carl Moyer Memorial Air Quality Standards Trust Fund and to the state board for the purchase of new, lower-emitting schoolbuses to be expended in a manner that addresses air pollution in communities that are severely impacted by air pollution.



(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The extraction, refinement, transportation, and combustion
4 of petroleum has contributed significantly to high levels of
5 pollution in the air, groundwater, and surface waters of the state.

6 (b) The petroleum industry has made significant strides in
7 recent years to employ clean technologies and practices to protect
8 against and clean up petroleum-related pollution. Despite those
9 efforts, air and water pollution resulting from the transportation
10 and energy industries over the years has exhausted available
11 resources needed for cleanup.

12 (c) The transportation sector is the leading contributor of air
13 pollution in the state, accounting for the emission of more than 50
14 percent of smog-forming pollutants in the state. In addition to
15 smog-forming pollutants, diesel engines also emit particulate
16 matter, inhalation of which can lead to lung damage, cancer,
17 respiratory illness, and premature death. In 1998, the State Air
18 Resources Board classified diesel exhaust as a toxic air
19 contaminant.

20 (d) Petroleum-related pollution resulting from urban runoff
21 pervades coastal waters, including, but not limited to, the San
22 Francisco and Santa Monica bays and inland streams and rivers.
23 Sufficient funding is not available to regional water boards for the
24 development and implementation of total maximum daily loads

(TMDL) standards, which are required to be developed by all states pursuant to the federal Clean Water Act, in order to identify and limit pollution sources. Additionally, sufficient funding is not available to local governments in order for them to comply with TMDL standards and to implement stormwater pollution prevention and mitigation programs to begin the resource-intensive process of cleaning up these waters.

(e) Petroleum releases, particularly those containing methyl-tertiary butyl ether (MTBE), has degraded the quality of groundwater in California, creating over 10,000 groundwater contaminant plumes in the state.

(f) To clean up current petroleum-related pollution and to protect against further contamination, it is necessary to establish stable, sufficiently funded programs, dedicated specifically for the purpose of pollution cleanup and prevention.

(g) In order to ensure the necessary level of funding and continued operation of these programs, it is necessary to create a sustainable, consistent funding mechanism that is independent from the state budget. A fee per-barrel of petroleum refined within the state, imposed at the refinery gate, would provide that mechanism.

(h) The fee per-barrel imposed by this act is proportionate to the harm resulting from petroleum pollution within the state, and is a fair and reasonable means to mitigate the past, present, and future harm to public health and safety resulting from petroleum pollution in the state.

(i) It is the intent of the Legislature that the fees imposed by this act not be passed through to consumers.

SEC. 2. Division 29 (commencing with Section 38000) is added to the Public Resources Code, to read:

**DIVISION 29. CALIFORNIA CLEAN COMMUNITIES
AND PETROLEUM POLLUTION CLEANUP ACT OF 2002**

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

38000. This division shall be known, and may be cited, as the California Clean Communities and Petroleum Pollution Cleanup Act of 2002.

1 38001. For purposes of this division, the following terms have
2 the following meanings.

3 (a) “Crude oil” means petroleum in an unrefined or natural
4 state, including condensate and natural gasoline.

5 (b) “Crude oil producer” means any person or entity
6 producing crude oil within the state that does not refine crude oil
7 into a product.

8 (c) “Diesel fuel” means any liquid that is commonly or
9 commercially known or sold as a fuel that is suitable for use in a
10 diesel-powered highway vehicle. A liquid meets this requirement
11 if, without further processing or blending, the liquid has practical
12 and commercial fitness for use in the engine of a diesel-powered
13 highway vehicle.

14 (d) “Fund” means the California Petroleum Pollution Cleanup
15 Fund created pursuant to Section 38050.

16 (e) “Petroleum” means any petroleum product, including, but
17 not limited to, petroleum additives.

18 (f) “Petroleum additive” includes, but is not limited to,
19 methyl-tertiary butyl ether (MTBE).

20 (g) “Petroleum contamination” means pollution of
21 groundwater and surface waters, including public and private
22 water supplies from any petroleum product, including petroleum
23 additives, or by any action related to the extraction, refinement,
24 transport, storage, sale, or usage of petroleum.

25 (h) “TMDL” means total maximum daily load of a pollutant
26 that a body of water can receive and still meet water quality
27 standards, and an allocation of that amount to the pollutant’s
28 sources. For the purposes of this division, the term is limited to
29 include only pollutants derived from petroleum.

30 (i) “TMDL standards” means the TMDL standards
31 established by the state pursuant to subsection (d) of Section 1313
32 of Title 33 of the United States Code. For the purposes of this
33 division, the term is limited to include only standards for pollutants
34 derived from petroleum.

35
36 CHAPTER 2. CALIFORNIA PETROLEUM POLLUTION CLEANUP
37 FUND
38

39 38050. (a) The California Petroleum Pollution Cleanup
40 Fund is hereby created in the State Treasury. The money in the

1 fund shall be expended for purposes of this division, upon
2 appropriation by the Legislature.

3 (b) The owner or operator of every refinery in the state shall
4 pay a fee in the amount of thirty cents (\$0.30) for each barrel of
5 crude oil refined at that refinery. The fee shall be remitted on a
6 quarterly basis, for deposit in the fund, to the State Board of
7 Equalization by the refinery owner or operator based on the
8 number of barrels of crude oil refined during the previous quarter.

9 38051. (a) Of the fee paid for each barrel of crude oil refined
10 and deposited in the fund pursuant to Section 38050, ____ percent
11 shall be for the amount of crude oil refined by the refinery into
12 petroleum products other than diesel fuel. This amount shall be
13 allocated to the Petroleum Polluted Water Remediation Account,
14 which is hereby created in the fund. The moneys in the account
15 shall be administered by the California Environmental Protection
16 Agency to remediate petroleum contamination of groundwater
17 and marine and terrestrial surface waters.

18 (b) Of the fee paid for each barrel of crude oil refined and
19 deposited in the fund pursuant to Section 38050, ____ percent
20 shall be for the amount of crude oil refined by the refinery into
21 diesel fuel.

22 (1) Fifty cents (\$0.50) of each dollar deposited in the fund
23 pursuant to this subdivision shall be allocated to the Carl Moyer
24 Memorial Air Quality Standards Attainment Trust Fund, created
25 pursuant to subdivision (a) of Section 44299 of the Health and
26 Safety Code, to fund diesel emissions exposure reduction
27 incentive projects and programs through air quality management
28 districts and air pollution control districts.

29 (2) Fifty cents (\$0.50) of each dollar deposited in the fund
30 pursuant to this subdivision shall be allocated to the State Air
31 Resources Board to provide funding to purchase new, lower
32 emitting schoolbuses pursuant to guidelines adopted by the state
33 board pursuant to Section 38152.

34 (c) Not more than 3 percent of each allocation described in
35 subdivisions (a) and (b) may be used for program administration
36 and overhead costs.

37 (d) All interest earned on moneys deposited in the fund shall be
38 deposited in the fund.

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CHAPTER 3. WATER POLLUTION REMEDIATION

38100. The following criteria are applicable to moneys allocated to the Petroleum Polluted Water Remediation Account pursuant to subdivision (a) of Section 38051:

(a) The following entities within the state are eligible to apply for moneys from the account:

- (1) State government agencies.
- (2) Regional water quality control boards.
- (3) County and city agencies.
- (4) Public water districts and water utilities.
- (5) Private water companies.
- (6) Academic institutions.
- (7) Nonprofit organizations.

(b) The following projects are eligible for funding from the account, to the extent that they relate to harm caused, or are intended to mitigate or prevent the harm created, by petroleum products that are refined by a refinery subject to this division:

- (1) Investigation and remediation of petroleum contamination.
- (2) Restoration of natural resources damaged by petroleum contamination.
- (3) Medical monitoring and treatment of persons exposed to petroleum contamination.
- (4) Identification of parties responsible for petroleum contamination.
- (5) Oversight of investigation and remediation programs for petroleum contamination being implemented by responsible parties.
- (6) Legal action against responsible parties for petroleum contamination.
- (7) Research into treatment technologies for petroleum contamination.
- (8) Development and implementation of TMDL projects designed to prevent, reduce, or minimize releases of petroleum.
- (9) Compliance with TMDL standards.
- (10) Investigation and remediation of orphan petroleum underground storage tanks.
- (11) Design and implementation of pollution prevention, as defined in subdivision (b) of Section 13263.3 of the Water Code, to prevent petroleum contamination.

1 (12) Development and implementation of source water
2 assessment and protection programs and basin management plans
3 to protect water resources from release of petroleum.

4 (13) Development of local oil spill contingency plans.

5 (14) Prevention and mitigation of petroleum-related
6 stormwater contamination.

7 (c) (1) The following costs are eligible for funding from the
8 account for purposes of the projects described in subdivision (b).

9 (A) Any required technical consulting, engineering contractor
10 services, or other staffing costs.

11 (B) Legal fees incurred in actions against parties responsible
12 for the contamination being addressed.

13 (C) Educational programs for the business community and
14 government.

15 (2) Costs to address contamination at facilities owned or
16 operated by the person applying for funding are not eligible for
17 funding from the account.

18 (d) (1) Any applicant receiving moneys from the account for
19 a specific project shall take all reasonable steps to recover those
20 funds from parties responsible for the contamination being
21 addressed.

22 (2) Any recovery of funds pursuant to paragraph (1) shall first
23 be applied to reimbursing the account for any moneys disbursed
24 for that specific project.

25 38101. (a) The Secretary for Environmental Protection shall
26 establish the California Petroleum Pollution Cleanup Fund
27 Committee, which shall oversee the distribution of the moneys
28 allocated to the Petroleum Polluted Water Remediation Account
29 pursuant to subdivision (a) of Section 38051. The committee shall
30 be comprised of the following members:

31 (1) One representative from each of the following entities:

32 (A) The State Air Resources Board.

33 (B) The State Water Resources Control Board.

34 (C) The Office of Oil Spill Prevention and Response in the
35 Department of Fish and Game.

36 (D) The State Department of Health Services.

37 (E) The Department of Water Resources.

38 (F) The State Division of Oil, Gas and Geothermal Resources
39 in the Department of Conservation.

(G) An air quality management district or air pollution control district, as determined by the secretary.

(H) The State Energy Resources Conservation and Development Commission.

(2) One member appointed by each of the following:

(A) The Speaker of the Assembly.

(B) The President pro Tempore of the Senate.

(C) The Governor.

(D) The Auditor General.

(E) The Attorney General.

(b) The committee shall review applications for funding, select funding recipients, and decide upon the level of funding for recipients for the moneys allocated to the Petroleum Polluted Water Remediation Account pursuant to subdivision (a) of Section 38051.

(c) The committee may not disburse, in any one fiscal year, an amount greater than the revenue received by the Petroleum Polluted Water Remediation Account pursuant to subdivision (a) of Section 38051 for that year, plus 20 percent of the accumulated balance from previous years.

CHAPTER 4. AIR POLLUTION REMEDIATION

38150. Moneys allocated to each project funded pursuant to subdivision (b) of Section 38051 shall be expended in a manner that directly addresses air pollution in communities that are severely impacted by air pollution, consistent with subdivisions (a) and (b) of Section 43023.5 of the Health and Safety Code.

38151. The parties, projects, and costs eligible for the moneys allocated to the Carl Moyer Memorial Air Quality Standards Attainment Trust Fund pursuant to paragraph (1) of subdivision (b) of Section 38051 are the same as those described in Chapter 9 (commencing with Section 44275) of Part 5 of Division 26 of the Health and Safety Code.

38152. The State Air Resources Board shall adopt guidelines to determine the parties, projects, and costs eligible for funding from the moneys allocated to the state board pursuant to paragraph (2) of subdivision (b) of Section 38051. The guidelines shall be specifically developed and adopted to govern the expenditure of those moneys, and shall be separate and distinct from guidelines

1 adopted for any existing lower-emission school bus program
2 administered by the state board.

3 SEC. 3. Notwithstanding Section 17610 of the Government
4 Code, if the Commission on State Mandates determines that this
5 act contains costs mandated by the state, reimbursement to local
6 agencies and school districts for those costs shall be made pursuant
7 to Part 7 (commencing with Section 17500) of Division 4 of Title
8 2 of the Government Code. If the statewide cost of the claim for
9 reimbursement does not exceed one million dollars (\$1,000,000),
10 reimbursement shall be made from the State Mandates Claims
11 Fund.

